

*This opinion is nonprecedential except as provided by  
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A21-1297**

East Phillips Neighborhood Institute, Inc., et al.,  
Relators,

vs.

The City of Minneapolis,  
Respondent.

**Filed February 6, 2023  
Affirmed  
Frisch, Judge**

City of Minneapolis

Miles Ringsred, Duluth, Minnesota (for relators)

Kristyn Anderson, Minneapolis City Attorney, Mark Enslin, Ivan Ludmer, Assistant City  
Attorneys, Minneapolis, Minnesota (for respondent)

Considered and decided by Frisch, Presiding Judge; Reyes, Judge; and Kirk, Judge.\*

**NONPRECEDENTIAL OPINION**

**FRISCH**, Judge

Relators East Phillips Neighborhood Institute, Inc. (EPNI) and Cassandra Holmes  
argue that an environmental-assessment worksheet (EAW) related to the proposed  
expansion of a water maintenance facility prepared by respondent City of Minneapolis was

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\* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to  
Minn. Const. art. VI, § 10.

incomplete and inaccurate, did not sufficiently address mitigation considerations, and was the product of bias. Relators also argue that an environmental-impact statement (EIS) was required. Because the city prepared a complete and accurate EAW in compliance with applicable authorities, and no EIS was required, we affirm.

## **FACTS**

The Minneapolis Public Works Department proposed to expand its Hiawatha Maintenance Facility, located in the East Phillips neighborhood, into the property immediately to the south (the project). According to the EAW, this expansion would involve the relocation and consolidation of the water distribution maintenance functions from the East Side Wateryard, including office, shop, yard and vehicle/equipment storage functions, and sewer and stormwater office staff from elsewhere. The project would require the environmental abatement and demolition of the former Roof Depot warehouse building and the construction of approximately 328,000 square feet of new buildings, as well as surface and structured parking for an additional 360 city and personal vehicles. Wateryard functions are a key element to the distribution of approximately 55 million gallons of safe drinking water per day to city residents and seven wholesale customers located outside the city's boundaries. According to the EAW, the project is part of the city's effort to consolidate services in key locations to improve the efficiency of its services and improve working conditions for employees.

The East Phillips neighborhood—a community primarily comprised of individuals who identify as people of color—has been disproportionately affected by pollution. Historical contamination at the project site includes pollution from petroleum compounds,

volatile organic compounds, metals (including arsenic), asbestos, debris contamination in the soil, and groundwater contaminated with petroleum compounds and metals. The unique vulnerability of the East Phillips neighborhood for further impact from pollution led to the Minnesota Pollution Control Agency (MPCA) to recognize it as an area of environmental justice concern, and it has been included in the city's designated Southside Green Zone.<sup>1</sup>

In January 2020, residents of the East Phillips neighborhood presented the city with a petition to perform an EAW for the project. The city concluded that Minn. R. 4410.1700, subp. 7 (2021),<sup>2</sup> did not require an EAW for the project, but it ultimately elected to prepare a discretionary EAW. In February 2021, the city published the EAW for public comment. The city granted a request to extend the 30-day comment period until March 25, 2021. EPNI submitted comments in response to the EAW.

Given the “unprecedented” number of public comments, the city postponed issuing a decision for an additional 30 days under Minn. R. 4410.1700, subd. 2a(B) (2021), in order to review and assess the information received. The city presented the EAW to several city

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<sup>1</sup> The city's Green Zone initiatives are aimed at improving health and supporting economic development using environmentally conscious efforts in communities that face the cumulative effects of environmental pollution, as well as social, political, and economic vulnerability.

<https://lims.minneapolismn.gov/Download/PriorMetaData/-53364/2016R-040.pdf>  
[<https://perma.cc/M7FH-EPBZ>]

<sup>2</sup> We cite the most recent version of the governing administrative rules because they have not been amended in relevant part. *See Interstate Power Co. v. Nobles Cnty. Bd. of Comm'rs*, 617 N.W.2d 566, 575 (Minn. 2000) (stating that, generally, “appellate courts apply the law as it exists at the time they rule on a case”). For the same reason, we also cite the current versions of other rules cited in this opinion.

council committees, and the city, through the city council, ultimately adopted the EAW's findings of fact, approved the adequacy of the EAW, and approved the determination set forth in the EAW that an EIS is not required.

Relators appeal.

## DECISION

Relators argue the city's adoption of the EAW's conclusion that an EIS was not necessary was arbitrary and capricious because the city was biased as the responsible governmental unit (RGU), and the EAW was incomplete and failed to consider several important aspects of the problem.<sup>3</sup> We address each argument in turn.

When reviewing agency action, we determine whether the agency has taken a "hard look" at the problems involved, and whether it has "genuinely engaged in reasoned decision-making." *Rsrv. Min. Co. v. Herbst*, 256 N.W.2d 808, 825 (Minn. 1977) (quotation omitted). We defer to the RGU's decisions unless "they reflect an error of law, the findings are arbitrary and capricious, or the findings are unsupported by substantial evidence." *Citizens Advocating Responsible Dev. v. Kandiyohi Cnty. Bd. of Comm'rs*, 713 N.W.2d 817, 832 (Minn. 2006) (*CARD*). Substantial evidence is evidence that a reasonable person might accept as adequate to support a conclusion. *Id.* A decision is considered arbitrary and capricious if it is "based on factors that the legislature did not intend," "entirely fails to address an important aspect of the problem," "offers an explanation that is counter to the

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<sup>3</sup> Relators initially assert in their brief that the EAW lacked substantial evidence, but all of their arguments relate to a failure to address various aspects of the problem; thus, we construe relators' argument to be that the EAW was arbitrary and capricious.

evidence,” or is “so implausible that it could not be explained as a difference in view or the result of the RGU’s decision-making expertise.” *Friends of Twin Lakes v. City of Roseville*, 764 N.W.2d 378, 381 (Minn. App. 2009). The party challenging an RGU’s decision “has the burden of proving that its findings are unsupported by the evidence as a whole.” *Id.*

**I. The record contains no evidence of actual bias by the city.**

Relators assert that the city’s decision that an EIS was not necessary was arbitrary and capricious because the city was biased in the preparation of the EAW, and its decision represents its will, rather than its judgment. Relators argue the city was biased because (1) the city advocated for the project “prior to the adjudication,” (2) the city had already made and implemented its decision to complete the project before the “quasi-judicial review of the EAW,” and (3) the city had “[p]ecuniary interests stemming from millions of dollars already expended by [the city] on the Project prior to the adjudication.”<sup>4</sup> We disagree.

First, the RGU that conducted the EAW differed from the city unit that proposed the project. The project was proposed by the Minneapolis Public Works Department, while the EAW was completed by the Minneapolis Department of Community Planning &

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<sup>4</sup> Relators primarily frame their bias argument in terms of due process and a right to a fair adjudication, but they cite no authority establishing such rights with regard to an EAW determination. Relators seem to cite *State ex rel. Friends of Riverfront v. City of Minneapolis*, 751 N.W.2d 586, 590 (Minn. App. 2008), *rev. denied* (Minn. Sept. 23, 2008), for the proposition that relators have constitutional due-process rights to a “full and fair opportunity” to be heard, but that case discussed a “full and fair opportunity to be heard” as an element of collateral estoppel. To the extent relators have a fundamental due-process right to be heard in the EAW process, nothing in the record indicates they were denied that opportunity, especially considering the extensive public comment period to the EAW and EPNI’s submission of comments responding to the EAW.

Economic Development. The separation of the entities that proposed the project and conducted the EAW undermines the assertion that the city was biased as an RGU reviewing its own project. Indeed, the appointment of a different city department as RGU is consistent with Minn. R. 4410.0500, subp. 2 (2021), which provides that the RGU for a discretionary EAW “shall” be the governmental unit that ordered the EAW.

Second, the record contains no evidence of actual bias by the city. Relators do not identify any specific, affirmative evidence showing actual bias. *Cf. Living Word Bible Camp v. County of Itasca*, No. A12-0281, 2012 WL 4052868, at \*8 (Minn. App. Sept. 17, 2012) (concluding that evidence that an individual commissioner who was involved in the EAW repeatedly ordered changes to the EAW that benefited opponents of the project at issue demonstrated actual bias), *rev. denied* (Minn. Nov. 27, 2012).<sup>5</sup> Rather, the record indicates that the city council engaged in a robust discussion and received and considered competing views on the project. While the city council recognized that the project has been a longstanding commitment and that the city had invested in the project, several Policy and Government Oversight (POGO) committee members raised concerns about the project, including concerns about environmental and racial justice.<sup>6</sup> *See Stelzner v.*

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<sup>5</sup> We cite this nonprecedential opinion for its persuasive authority. Minn. R. Civ. App. P. 136.01, subd. 1(c). In *Living Word Bible Camp*, we simply remanded for completion of a new EAW without the participation of the biased commissioner, 2012 WL 4052868 at \*1; we did not remand with instructions to appoint a new RGU, and relators point to no authority for the proposition that appointment of a new RGU would be an appropriate remedy if they met their burden to establish bias.

<sup>6</sup> We observe that, while discussing the project and the EAW, one council person stated in reference to the project, “The other option would be to just sort of cancel it. I would defer to CPED or other staff about that procedurally.” The council person continued, “I would

*Minnehaha Creek Watershed Dist.*, No. C7-97-1087, 1997 WL 733635, at \*4 (Minn. App. 1997) (concluding a city’s interest in the benefits of a project does not necessarily constitute bias or prejudice, especially considering that Minn. R. 4410.0500 “anticipates the RGU will have an interest in the project”). Accordingly, relators have not met their burden to show the EAW was arbitrary and capricious due to the city’s alleged bias.

## **II. The city’s decision was not incomplete or inadequate.**

Relators argue the city’s decision that an EIS was not required was arbitrary and capricious because the EAW was incomplete and entirely failed to or did not adequately address several important aspects of the problem. We address each argument in turn.<sup>7</sup>

### **A. The EAW was not incomplete.**

Relators argue the EAW entirely failed to evaluate the health effects in the East Phillips neighborhood, cumulative effects of the project, and climate change effects. A

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just really encourage us to not set into motion the need to do an environmental impact statement; again, because in case that this is privately owned in the future—I just don’t see any benefit of that action today, regardless of what happens with the site ownership.” This single comment, in contrast to the evidence of repeated actions in *Living Word Bible Camp*, does not taint the city’s entire process of drafting the EAW and affirming its negative declaration of significant environmental effects.

<sup>7</sup> Relators also assert the EAW was arbitrary and capricious because it did not consider alternative sites. Relators cite Minn. R. 4410.2300 (2021) for the proposition that an EAW is required to compare the impact of the proposal with those of other reasonable alternatives. The cited rule applies only to an EIS. Even so, members of the POGO committee that adopted the EAW’s conclusions broadly discussed alternative sites.

Relators also assert that the EAW negative declaration was arbitrary and capricious because it failed to identify the project as a “phased action” or “connection action” pursuant to Minn. R. 4410.0200, subps. 9(c), 60 (2021). We discern no merit to this argument where relators do not identify what other projects are verifiably connected to or related to the current project.

decision is considered arbitrary and capricious if it “entirely fails to address an important aspect of the problem.” *See Friends of Twin Lakes*, 764 N.W.2d at 381. In determining whether a project may result in “significant environmental effects,” the RGU must consider four factors: (1) the “type, extent, and reversibility of environmental effects”; (2) the “cumulative potential effects” of related or anticipated future projects; (3) “the extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority”; and (4) “the extent to which environmental effects can be anticipated and controlled as a result of other available environmental studies undertaken by public agencies or the project proposer, including other EISs.” Minn. R. 4410.1700, subp. 7; *see also CARD*, 713 N.W.2d at 829.

### ***Health and Air Quality***

Relators argue the city did not address the project’s impact on the health of the surrounding neighborhood because it failed to discuss “the human impacts related to air quality,” and the city “was required to discuss how the proposed Project will affect air quality.” But the EAW did address the project’s impact on air quality and health. The EAW briefly discussed the impact of the air quality on humans to the extent it was supported by the data. The city listed the current hazardous air pollutants (inherently recognizing the impact to human health) and noted that the current emissions do not require a federal or state air permit because they fell below the emissions threshold. The EAW also includes the potential emissions from the proposed additions from the project and concludes the new emissions likely will not require permitting, implying that no further discussion of health impacts would be necessary. The city noted in response to a comment



that the MPCA evaluated the emissions calculations and found the methods used and calculations acceptable.

The EAW cited and included as an attachment a complete air-assessment study. The study concluded that the project does not require an air-quality permit, and so a cumulative-levels-and-effects (CL&E) analysis taking a comprehensive look at all environmental health-related information was not necessary at the time. The MPCA did not raise any concerns about air quality. The air-assessment study also includes material safety data sheets for the substances discussed in the assessment, and the data sheets included information about potential health hazards of each substance. The EAW also addressed vehicle emissions and dust and odors with regard to air quality, and it found traffic would increase by less than 1% and that dust and odors generated by the project “are not anticipated to have a significant impact on human health, quality of life, or the environment.” Thus, the city did not entirely fail to address the potential impact of air quality on human health. *See CARD*, 713 N.W.2d at 833-34 (concluding that air-pollution concerns did not mandate an EIS where there was no specific evidence regarding air pollution, the MPCA did not express concerns regarding air pollution, and there appeared to be pre-existing standards for dust, traffic, and noise control); *see also White v. Minn. Dep’t of Nat. Res.*, 567 N.W.2d 724, 736 (Minn. App. 1997) (concluding an alternative EAW did not avoid the issue or evidence of air quality merely because the appellants’ evidence may contradict the evidence in the record), *rev. denied* (Minn. Oct. 31, 1997).

### *Cumulative Potential Effects*

Relators argue the city entirely failed to address the cumulative potential effects of the project on the surrounding community. The “cumulative potential effects” criteria required to be considered under Minn. R. 4410.1700, subp. 7, is intended “to put the proposed project into context.” *CARD*, 713 N.W.2d at 829. “The criteria aims to determine whether the project, which may not individually have the potential to cause significant environmental effects, could have a significant effect when other local projects already in existence or planned for the future are considered.”<sup>8</sup> *Id.*

Relators argue the city failed to evaluate cumulative potential effects of the project because “[a] proper [cumulative potential effects] analysis for this Project would include a pre-Project baseline condition for the impacted area and then follow several more steps to gather additional information that would allow [the city] to complete a standard CPE assessment.” Relator’s brief does not elaborate on the additional steps the city was purportedly required to take or information it was required to gather. Nevertheless, the city does describe in the EAW—which we emphasize is a brief document by statutory design, Minn. Stat. § 116D.04, subd. 1a(c) (2022)—the current conditions of the project area, including pre-project air emissions, water quality, hazardous material and soil conditions, and traffic levels, and then addresses possible impacts the project may have on such

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<sup>8</sup> Relators focus on the cumulative potential effects of the project as interacting with current levels of pollution, but in *CARD*, the supreme court did not determine such interaction as a relevant focus of the cumulative-potential-effects criteria. *See also* Minn. R. 4410.0200, subp. 11(a) (2021) (defining cumulative potential effects).

conditions. Thus, cumulative-potential-effects analysis in the EAW does not entirely fail to consider pre-project baseline conditions as relators assert.

Further, the city did not entirely fail to address cumulative potential effects of other local projects. The city considered the project's potential cumulative effects on the current water usage, hazardous contamination of the site, air emissions, noise, and traffic. The city noted that there are short and long-term street improvement projects planned for the project area. Attached to the EAW was a Travel Development Management Plan (TDPM) that described these plans. The city stated in the EAW that the plans are intended to "improve streets, along with associated traffic and environmental effects from traffic, around the project Site." The EAW summarized these improvements and stated they "are not recommended at this time." The city stated in the EAW that the public works department "continues to evaluate how best to include several of these [street improvement projects] in coordination with [the project]." The city also noted in the EAW that construction activities would be conducted in accordance with state and local environmental protection procedures and follow all required environmental permitting required by state and local laws. The city stated in the EAW that "[n]o other projects that may contribute to cumulative environmental effects of this project are currently planned within the immediate vicinity of the Site." Thus, the city did not entirely fail to address cumulative potential effects of other local projects, and so its decision that the EAW did not necessitate an EIS was not arbitrary or capricious.<sup>9</sup>

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<sup>9</sup> In their brief, relators did not specify any other complaints about the cumulative-potential-effects analysis set forth in the EAW. On appeal, we do not consider unidentified

### *Climate Change Effects*

Relators argue that the city's decision was arbitrary and capricious because the EAW entirely failed to address the project's impact in relation to climate change, and that the city was required to address this issue pursuant to *In re Daley Farms of Lewiston LLP*, No. A19-0207, 2019 WL 5106666, at \*7 (Minn. App. 2019). In that case, we held that the MPCA failed to take a "hard look" at potentially significant environmental effects when the relator calculated the proposed expansion would emit over 1.2 million kg of methane per year, the MPCA did not address greenhouse-gas emissions at all because the EAW form did not require such analysis for feedlots, and the MPCA stated it was not required to consider greenhouse-gas emissions because the project did not require an air permit. *Daley Farms*, 2019 WL 5106666, at \*7. But *Daley Farms* is not instructive here. First, *Daley Farms* is a nonprecedential decision and therefore does not establish a requirement that an EAW must consider greenhouse-gas emissions. See Minn. R. Civ. App. P. 136.01, subd. 1(c) ("Nonprecedential opinions and order opinions are not binding authority except as law of the case, res judicata or collateral estoppel."). Second, in contrast to *Daley Farms*, the city did not entirely omit or fail to address greenhouse-gas emissions; the city included data on current greenhouse-gas emissions and the calculated increase based on the proposed project. The city also responded to comments stating that it would be relying on

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issues that have not been raised by relators. *Minnesota Center for Environmental Advocacy v. City of St. Paul Park*, 711 N.W.2d 526, 533 (Minn. App. 2006) (recognizing an issue was waived when commentators raised it in an administrative review process but relator did not raise the issue in their brief); see also *Melina v. Chaplin*, 327 N.W.2d 19, 20 (Minn. 1982) (stating that issues not briefed on appeal are waived).

the city's Climate Action Plan and the MPCA's recommended green practices in the development of the project to mitigate climate change effects. *See Connaughty v. Winona Cnty. Bd. of Comm'rs (In re Env't Impact Statement)*, 849 N.W.2d 71, 81 (Minn. App. 2014) (affirming an EAW that relied upon pre-existing regulatory oversight to prevent significant environmental effects before they occur). Thus, the EAW was not arbitrary and capricious because the city did not entirely fail to address greenhouse-gas emissions.

**B. The EAW was not inadequate.**

Relators argue the EAW did not adequately evaluate the project's impact on certain issues including (1) the endangered rusty patch bumble bee; (2) soil, groundwater, and soil vapors; (3) diesel particulates; (4) vehicle assessment using the correct measure; and (5) building foundation design.<sup>10</sup> We disagree.

***Rusty Patch Bumble Bee***

Relators rely on the Minnesota Environmental Quality Board's (EQB) EAW guidelines that emphasize considering potential effects to state-listed endangered species to argue the city did not adequately consider the project's effects on the rusty patch bumble bee (the bee). The city indicated in response to public comment that the Minnesota Department of Natural Resources (MDNR) does not consider the bee to be a state endangered species and that it was unlikely the bee would be present in the project zone. The city also stated that pollinator-friendly landscaping would be incorporated into the

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<sup>10</sup> Relators also argue the EAW did not adequately address environmental justice, but relators cite no basis for why environmental justice is a required separate consideration from environmental impact for purposes of an EAW. Additionally, environmental justice was discussed by the city council as previously noted.

project, which could mitigate risks to the bee. The EAW therefore adequately addressed concerns about the federal-listed endangered species for purposes of the EAW.<sup>11</sup> *Cf. White*, 567 N.W.2d at 736 (concluding an alternative EAW adequately considered potential impact on historic settings when the agency stated it would follow state and federal regulations governing preservation of historical sites).

### ***Soil, Groundwater, and Soil Vapors***

Relators argue the EAW “fails to completely characterize” the “existing contamination beneath and near the project site.” Several pages of the EAW are devoted to discussing the available records of leaks, contaminations, and environmental assessments of the project site. Thus, the city adequately addressed the existing contamination at and near the project site.

### ***Diesel Particulates and Vehicle Assessment***

Relators assert the city inadequately addressed diesel particulates which is “[a]rguably the most important air emission consideration for this Project,” and used the incorrect measurement for the vehicle assessment. Relators do not explain why the city’s vehicle assessment measurement was materially incorrect, on what basis diesel particulates are the most important air-emission consideration, why the city’s consideration of various other pollutants and diesel mitigation efforts were not adequate, or why these alleged errors make the EAW’s negative declaration on the need for an EIS arbitrary and capricious.

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<sup>11</sup> Relators seem to rely on information outside the record to assert that the bee is more likely to be in the project zone, but we do not consider material outside of the record on appeal. *See Stageberg v. Stageberg*, 695 N.W.2d 609, 613 (Minn. App. 2005) (stating that “[a]ppellate courts may not consider matters outside the record on appeal”).

Thus, these assertions are unavailing. *See State, Dep't of Labor & Indus. v. Wintz Parcel Drivers, Inc.*, 558 N.W.2d 480, 480 (Minn. 1997) (declining to reach an issue in the absence of adequate briefing); *see also White*, 567 N.W.2d at 736 (“Although a different analysis of the data may have yielded a different decision, appellants did not establish that the [agency’s] analysis of the data was clearly inadequate.”). We do not conclude the EAW was arbitrary and capricious in its analysis on this topic.

### ***Building Foundation Design***

Relators argue the EAW did not contain information about the foundation design of the project, which caused the EAW to lack information about protecting human health and the environment from releases of hazardous materials from contaminated soil. Relators cite no authority for the proposition that the EAW must include the building foundation design. Further, the city did include findings on the quality of the soil and how it would address environmental concerns about soil contamination that may arise in the process of building the foundation. These plans included preparing a Response Action Plan/Construction Contingency Plan to be reviewed by the MPCA prior to beginning construction and removing contaminated soil to an approved off-site disposal facility. *See Friends of Twin Lakes*, 764 N.W.2d at 382 (stating that pre-existing regulatory oversight is a proper means of preventing significant environmental effects before they occur).

### ***Mitigation Considerations***

Relators argue the EAW’s mitigation considerations are deficient because they are not “specific, targeted, and are certain to be able to mitigate the environmental effects.” But “pre-existing regulatory oversight is a proper means of preventing significant

environmental effects before they occur.” *Id.* In response to comments, the city identified numerous regulatory oversight regimes that apply to various aspects of the project, including demolition and/or renovation being regulated under Minn. R. 7035.0805 (2021), that the project site has been enrolled in MPCA Voluntary Brownfields and the Minnesota Department of Agriculture (MDA) Voluntary Investigation and Cleanup programs that “provide[s] specific guidance documents developed by the MPCA/MDA that need to be followed during investigation and cleanup of contaminated properties,” and that the MPCA and/or MDA will approve protocols for the management of contaminated soil, groundwater, and soil vapors. The city also identified in the EAW specific steps it will take to control emissions, such as using filters on city vehicles and capturing diesel exhaust fluid during fueling. Thus, the mitigation efforts the city included in the EAW are sufficient and do not make the EAW arbitrary or capricious.

Ultimately, the EAW demonstrated the city took a “hard look” at the problems involved and “genuinely engaged in reasoned decision-making,” *Herbst*, 256 N.W.2d at 825, evidenced by the substance of the EAW and the substance of the numerous responses the city provided to the public comments. We have not determined an EAW this extensive to be arbitrary and capricious. *See, e.g., Trout Unlimited, Inc. v. Minn. Dep’t of Agric.*, 528 N.W.2d 903, 908-09 (Minn. App. 1995) (holding an EAW was arbitrary and capricious when the commissioner did not consider environmental effects likely to result from the project or how any effects could be mitigated in determining the need for an EIS and instead entirely deferred those considerations until construction of the project was underway), *rev. denied* (Minn. Apr. 27, 1995); *Dead Lake Ass’n, Inc. v. Otter Tail County*, No. A04-0717,



2005 WL 221773, at \*6 (Minn. App. 2005) (holding an EAW was arbitrary and capricious when the county relied on “some nebulous ‘ongoing regulatory authority’ in the form of its own ability to enact restrictions that did not yet exist at the time of the negative declaration when the effects of the increased boat usage had not yet been adequately address”), *rev. denied* (Minn. Apr. 27, 2005). It appears that the city attempted to address all relevant and required concerns with the understanding that an EAW is intended to be a brief document. Minn. Stat. § 116D.04, subd. 1a(c) (2022).

Both parties have set forth thoughtful and well-intentioned arguments in support of their respective positions as to why the other party should adopt a different course. We recognize that relators have come forward in good faith and with legitimate concerns for the health of their neighborhood. We also recognize that the city has undertaken the project in good faith and with the legitimate purpose of improving water services for the community. We are mindful of our limited role related to this dispute. In the absence of evidence showing actual bias, other arbitrary and capricious behavior, or an error of law, we cannot interfere in the political process to disturb the city’s decision.

**Affirmed.**